

REMARKS

Claims 1-10 and 27-29 are pending in the application, and are rejected.

Claim Rejections - 35 U.S.C. §103(a)

Claims 1-2, 7, 9-10 and 27-29 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,588,633 to Kono et al.

The rejection of claims 3-6 under 35 U.S.C. §103(a) as being unpatentable over Kono '633 in view of Takita '183 is maintained, as is the rejection of claim 8.

The Examiner has asserted that the products of both Kono '633 and Takita '183 directly possess most of the claimed limitations with the exception of the claimed directivity of the lamellas. The Examiner has asserted that both Kono '633 and Takita '183 inherently possess the claimed directivity of lamellas as the claimed invention. The Examiner's inherency argument arose because the Examiner noted that there was no disclosure in the cited references showing that they are made differently from the claimed invention.

In Exhibit B of the Inventor's Declaration submitted March 24, 2003, Applicants showed direct evidence that the membrane of Takita '183 does not have the claimed directivity of lamella. The Examiner has agreed that Exhibit B was persuasive in showing that Takita '183 does not teach or suggest the claimed directivity of the lamella of the membrane, because such evidence was directly shown by experimental data.

However, the Examiner asserts that Exhibit A did not convincingly prove that permeability is directly related to timely thermal setting, and therefore that Applicants have not convincingly proven that Kono '633 can not have the claimed directivity of lamella.

In response, Applicants submit herewith an Inventor's Declaration under 37 C.F.R. §1.132 that directly shows that Kono '633 does **not** have the claimed directivity of lamellas. Applicants note that an unsigned Declaration is being filed herewith; a signed declaration will be forwarded to the Patent Office as soon as possible.

In the Experiments associated with the Declaration, a membrane was prepared in accordance with the teachings of Kono et al. With respect to the obtained membrane (film), 100 lamellas were selected from a transmission electron micrographs (TEM, magnification: 100,000) of the cross section cut in the mechanical direction, and the proportion of those inclined at an angle θ between 80° and 100° to the membrane surface axis were determined. As a result, with respect to this membrane, the directivity of the lamella to direction perpendicular to the membrane surface was determined to be 36%.

As apparent from the results of the experiments, the thermally-set microporous membrane obtained in substantially the same manner as in EXAMPLE 2 of Kono et al. exhibits low air permeability of 1353 seconds/100 cc.

Further, with respect to this membrane, the directivity of the lamella to direction perpendicular to the membrane surface is lower than the lower limit 40% of the directivity defined in claim 1 of the present application, and the results of X-ray analysis do not satisfy the requirements as recited in claim 9 of the present application.

The properties (particularly the air permeability) of the microporous polyolefin membrane obtained in substantially the same manner as in Kono et al. are disadvantageously poor, as compared to those of the microporous polyolefin membrane of the present invention.

Therefore, it can easily be seen that the microporous polyolefin membrane of the present invention is demonstrably different from that of Kono et al., because it exhibits a different directivity of lamellas.

Because at least the claimed limitation of specific directivity of lamellas is not met by the cited reference, Applicants submit that the claimed invention is patentably distinct from that of the cited reference.

In view of remarks above, Applicants submit that that the claims are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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